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BY HAND

Hon. Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Gen. Docket 90-314: Personal Communications Services

Dear Chairman Hundt:

On May 25, 1994, Motorola filed a letter proposing a new revised channel plan for broadband Personal Communications Services. On behalf of Bell Atlantic Personal Communications, Inc. ("Bell Atlantic"), I would like to take this opportunity to comment on issues attending such a plan. As set forth below, Bell Atlantic believes that the Motorola proposal has merit. As the reconsideration period draws to a close, however, the Commission still must decide important spectrum allocation, eligibility and attribution questions that will profoundly affect broadband PCS **devel**opment.

Channel Plan and Cellular Eligibility

In response to the many concerns raised on reconsideration regarding the current broadband PCS channel plan, the Commission has been attempting to refine the plan in a manner that will better ensure the creation of multiple, strong PCS competitors and speedy deployment of this new service. Currently, the Commission has split the 120 MHz of spectrum allocated to licensed PCS into seven blocks: four 10 MHz blocks in the "upper" band (2130-2200 MHz), and one 20 MHz block and two 30 MHz blocks in the "lower" band (1850-1970 MHz). The Motorola proposal would preserve a 120 MHz allocation for licensed PCS, but would shift all of the broadband PCS frequencies to the lower part of the emerging technology bands between 1.8 and 1.9 GHz (i.e., pairing 60 MHz from 1850 to 1910 MHz with 60 MHz from 1930 to 1990 MHz, and preserving 20 MHz for unlicensed PCS operations).

We believe that such a channel plan has merit. It would, for example, eliminate the technical and economic inefficiencies attending the dual-band consolidation of spectrum blocks. It would also reduce somewhat the interference potential of incumbent microwave operations with broadband PCS operations because the lower band is less crowded with microwave users.

Even if it adopts the Motorola-proposed plan, however, the Commission still must decide how to channelize the lower band in a manner that (1) provides for the creation of strong PCS competitors, and that (2) permits all potential PCS players to bring their competitive strengths, expertise and resources to bear in the PCS marketplace, including cellular-affiliated entities.

Bell Atlantic has advocated the creation of and cited many benefits with a six 20 MHz block channel plan for broadband PCS. We understand that others have advocated a plan consisting of three 30 MHz blocks and three 10 MHz blocks. Both of these proposed regimes have strengths and weaknesses. Regardless of which channel plan it adopts, however, Bell Atlantic believes that it would be pointless and arbitrary to bar qualified companies from offering innovative PCS services in regions where they currently provide cellular service. Yet, this is the effect of limiting them to 10 MHz of PCS spectrum in-market.

The sole justification for such a draconian eligibility restriction is a speculative fear of "undue market power" which is highly unlikely to materialize in view of the number of wireless competitors that will exist in the PCS marketplace. More important, such fears provide little explanation as to why the Commission's traditional regulatory tools to police anticompetitive behavior and the antitrust laws would not be successful in checking any cases of abuse that might arise. The public interest should not be penalized on the basis of speculation. The record in this proceeding evinces no convincing competitive or policy reason why cellular-affiliated companies should not at least be able to accumulate up to 20 MHz of PCS spectrum in-market, and Bell Atlantic urges the FCC to allow them to do so.

Attribution Rules

As Bell Atlantic has argued, one of the most troubling aspects of the current PCS service rules is the Commission's apparent adoption of different and utterly inconsistent ownership standards for determining when a PCS applicant has an attributable interest in a cellular company versus when a cellular company has an attributable interest in a PCS applicant. In the first case, the Commission's rules state clearly that a PCS applicant for a service region that overlaps with cellular service areas can

have no more than a 20% interest in the in-market cellular carrier. In the second case, the Commission's rules are silent, but the PCS Order implies that an in-market cellular carrier can have no more than a 5% interest in the PCS applicant.

This disconnect in the cellular and PCS attribution thresholds makes no logical sense. Moreover, its only effect would be to limit drastically cellular and local exchange carrier participation in PCS consortiums, both local and national, even at a less than 20% non-controlling level of ownership. This result is clearly not in the public interest.

The appropriate solution to the attribution question is for the Commission to reject both the 20% and 5% ownership levels in favor of an attribution standard of legal control. This will allow cellular companies and affiliated LECs the opportunity to participate in PCS through consortiums. If it does not do so, the Commission will severely limit the number of entities eligible to hold regional or nationwide PCS licenses, and will also restrict the opportunities for small businesses, minorities and other "designated entities" to become involved in PCS by strategically partnering with experienced telecommunications service providers.

Very truly yours,

Daniel P. Behuniak
President and Chief Executive Officer

cc: Hon. James H. Quello
Hon. Andrew C. Barrett
Hon. Susan Ness
Hon. Rachelle B. Chong
Ms. Karen Brinkmann
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